

DAVID K. BERTAN
ATTORNEY AT LAW
41 EAST 11TH STREET, 11TH FLOOR
NEW YORK, NEW YORK 10003

(718) 742-1688
E-MAIL: DBERTAN@YAHOO.COM

November 9, 2023

Via ECF


Hon. P. Kevin Castel, United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: USA v. Eugene Austin
23-Cr-508 (PKC)

Dear Judge Castel:

Application DENIED without prejudice to a submission of schedule of date, time, place and participants for in-person visits, which are to be the only communications between the two individuals.

SO ORDERED.
11/17/2023


P. Kevin Castel
United States District Judge

I represent Mr. Austin in the above matter. I am submitting this letter motion as a request for a modification of Mr. Austin's bail conditions. A brief procedural history follows.

Mr. Austin was arrested on July 5, 2023 and was charged with Conspiracy to Commit Wire Fraud (18 USC §1343), Conspiracy to commit Money Laundering (18 USC § 1956 (h)), and Conspiracy to Commit Interstate Transportation of Stolen Property (18 USC § 2314). That day, bail was set at \$1,000,000 under a personal recognizance bond, secured by \$100,000 in cash or property, and co-signed by two financially responsible persons. In addition to those conditions, Mr. Austin is on home detention with electronic monitoring, is to seek employment, not open new bank accounts, and, significant for this application, not to have contact outside the presence of counsel with co-conspirators Brandon Austin, Mr. Hugh Austin's son, or Charles Constant. Those bail conditions were eventually modified to remove the security requirement and instead add an additional co-signer. Mr. Austin fulfilled all requirements and has been compliant with his bail conditions.

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Brandon Austin, who appears before this Court under Docket Number 23-cr-199 (PKC), has pleaded guilty to one count of Money Laundering. To be blunt, Brandon Austin pleaded guilty to the conduct also charged against the defendant here. Brandon Austin is scheduled for sentencing on February 22, 2024.

Mr. Hugh Austin lives with his sister, her son, her daughter, and her niece. Brandon Austin lives with his grandmother, and his brother, Ryan.

Mr. Austin is extremely close with all his sons. He had custody of them (they are now adults), and has maintained close relationships with them. With the exception of one meeting with all counsel present, Mr. Hugh Austin has not had contact with Brandon since Hugh Austin's arrest. He misses his son, and would like to see him, talk with him, and otherwise maintain a normal, father-son relationship. Under the current bail restriction, he cannot do so. That is why I am requesting that his bail be modified to allow contact with Brandon without the presence of counsel. The Government objects to this request.

There is no risk of improper collaboration or communication between the two. Mr. Hugh Austin will be preparing for trial. Brandon Austin has already pleaded guilty, doing so before discovery was provided. Brandon cannot give Mr. Hugh Austin any information Hugh Austin doesn't already possess, and there is no need for Mr. Hugh Austin to share information with Brandon, as Brandon has already pleaded guilty. In any event, Mr. Austin agrees that he will not discuss his case with Brandon when they meet. Accordingly, I am respectfully requesting that Mr. Austin's bail be modified to permit contact between him and his son, Brandon.

Thank you for your consideration in this matter.

Very truly yours,



David K. Bertan

DKB

cc: AUSAs Andrew Chan and Sarah Lai (via ECF)